REMARKS/ARGUMENTS

The claims are divided into the following Groups:

Group I: Claims 1-15, drawn to a composition comprising idrocilamide

Group II: Claim 16, drawn to a method for treating rosacea comprising applying topically to skin a composition comprising idrocilamide.

Applicants elect, with traverse, Group II, Claim 16, for examination.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)).

The Office has asserted that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1, because under PCT Rule 13.2, they lack the same or corresponding special technical features.

> "Bayysat et al. (U.S. Pat. 4512994) teaches composition comprising theophylline and substituted cinnamides including idrocliamide. Examples are presented with compositions comprising theophylline and idrocliamide . . ."

Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

> "The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any)."

Applicants respectfully submit that the Examiner has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity and therefore has not met the burden necessary to support the assertion.

Furthermore, 37 C.F.R. § 1.475(b) states in pertinent part:

> "An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
> (2) A product and a process of use of said product; . . ."

Applicants respectfully submit that the Office has not considered the relationship of the inventions of Groups I and II with respect to 37 C.F.R. § 1.475(b)(2).

Moreover, Applicants respectfully refer to Annex B of the Administrative Instructions Under the PCT, paragraph (c), which states in part, "Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims." Applicants respectfully submit that Claim 16 depends directly from Claim 1 in this application.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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